

FILED

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**Board of Vocational Nursing
and Psychiatric Technicians**

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2011-1967

BARBARA ELISE FRYE
7000 S. La Cienega Blvd., Apt. 19
Inglewood, CA 90302

A C C U S A T I O N

Vocational Nurse License No. VN 234797

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about June 2, 2008, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 234797 to Barbara Elise Frye (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2014, unless renewed.

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1 a substantial departure from the standard of care which, under similar circumstances, would have
2 ordinarily been exercised by a competent licensed vocational nurse, and which has or could have
3 resulted in harm to the consumer. An exercise of so slight a degree of care as to justify the belief
4 that there was a conscious disregard or indifference for the health, safety, or welfare of the
5 consumer shall be considered a substantial departure from the above standard of care."

6 9. California Code of Regulations, title 16, section 2518.5, states:

7 The licensed vocational nurse performs services requiring technical and manual skills
8 which include the following:

9 (a) Uses and practices basic assessment (data collection), participates in planning, executes
10 interventions in accordance with the care plan or treatment plan, and contributes to evaluation of
11 individualized interventions related to the care plan or treatment plan.

12 (b) Provides direct patient/client care by which the licensee:

13 (1) Performs basic nursing services as defined in subdivision (a);

14 (2) Administers medications;

15 (3) Applies communication skills for the purpose of patient/client care and education; and

16 (4) Contributes to the development and implementation of a teaching plan related to self
17 care for the patient/client.

18 **CAUSES FOR DISCIPLINE**

19 10. The following allegations are common to all causes for discipline herein:

20 A. In Fall, 2009 Respondent was employed at Premier Healthcare Services (PHS), a
21 registry service.

22 B. In September of 2009, Respondent was assigned on approximately 8 occasions by
23 PHS to work as a day shift nurse, providing in-home care to pediatric patient Brianna, a 7 year
24 old girl with severe chronic health conditions.

25 C. Brianna was wheelchair-bound. She was also tracheotomy and ventilator
26 dependant, but suffered facial deformities, and giant cell tumors on her neck and in her nose and
27 mouth, so that suctioning of these areas caused bleeding and pain. She also had a 'port-a-cath'
28 maintained in place, to facilitate administration of intravenous medications.

1 D. Respondent's duties consisted of monitoring Brianna, bathing and feeding her, j-tube
2 care, tracheotomy and ventilator care, taking her for walks and providing companionship.
3 Brianna's parents were usually home while Respondent there - and performed some of these tasks
4 themselves.

5 E. By Respondent's own admission, over the course of several day shifts, Brianna's
6 parents explained her care routines, and specifically informed Respondent that : 1) suctioning the
7 patient's nose and mouth was painful and should be avoided due to tumors in those areas; and 2)
8 the patient had a 'port-a-cath' in place, to facilitate administration of intravenous medications.

9 F. On September 29, 2009 Respondent arrived at the patient's home at approximately
10 7:00 am. Both parents then left, and Respondent was left alone with the patient for about 45
11 minutes. During that time period, Respondent called 911 and arranged for transport of Brianna to
12 an acute care hospital emergency hospital – reporting that Brianna had pulled on the tracheotomy
13 tube, causing it to dislodge from the ventilator, resulting in momentary deprivation of oxygen.¹

14 G. Returning home to find Respondent and his daughter gone - Brianna's father called
15 PHS, and was informed that his daughter had been transported to a nearby hospital. Brianna's
16 father went immediately to the hospital, where he found his daughter in an agitated state. The
17 emergency room staff had attempted to suction Brianna's nose and mouth, causing bleeding and
18 discomfort, and were pricking her repeatedly in order to initiate an intravenous line.

19 H. Brianna's father observed that Respondent did not contact him at any time prior to his
20 arrival at the hospital – and was not present in the emergency room when he initially arrived. He
21 then learned from emergency room staff treating his daughter, that Respondent had failed to relay
22 any information regarding tumors in Brianna's nose and mouth – avoidance of suctioning- or that
23 a port-a-cath was in place.

24 I. Brianna experienced emotional and physical harm (discomfort, trauma and agitation)
25 from the subject events, but no permanent physical injury.

26 ¹ How the tube became dislodged is disputed. Respondent maintained that the patient
27 dislodged the tube, and was uncooperative with her when her parents were not present. The
28 parents doubt Respondent's version of what occurred, noting that Brianna understands she cannot
breathe without the tube in place, and is cautious about it.

J. The patient spent one night in the hospital, and was discharged on September 30, 2009. The hospital discharge report, dated October 3, 2009, describes as the patient's **Principal Diagnosis**: "(1) Status post-tracheotomy tube dislodgement, resolved.; (2) Respiratory distress, resolved." The report further noted as the **Reason For Admission**: "Observation and home health nursing abandonment." In a narrative portion of the report subtitled **History of Present Illness**, the reporting physician wrote: "The L.V.N. is unaware of home ventilatory settings, unaware of port-A-Cath, unaware of giant cell tumors, and did not inform pediatric emergency department nurses of underlying conditions prior to no (sic) suction resulting in bleeding and multiple I.V. attempts to non-Port-A-Cath site resulting in increased distress and agitation by the patient." The report further described Respondent leaving the pediatric emergency department after telling the reporting physician: "I am going to call my supervisor and complain; I am done with this family and taking care of this."

Admissions of Respondent

K. In an interview with a Board investigator on February 2012, Respondent admitted that she *did not* provide information regarding avoidance of suctioning, the presence of nasal and oral tumors or the location and status of the patient's port-a-cath to the hospital staff. Respondent denied that she made the statement to the physician referenced in the discharge report, and stated that she left the hospital once the patient's father arrived.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

11. Respondent BARBARA ELISE FRYE is subject to disciplinary action under section 2878, subdivision (a)(1) on grounds of unprofessional conduct, in that on or about September 29, 2009, while on duty as a licensed vocational nurse assigned to care for pediatric patient Brianna, was grossly negligent within the meaning of California Code of Regulations, Title 16, section 2519 in care provided to Brianna - due to acts and omissions which were a substantial departure from the standard of care, as follows:

A. Respondent failed to provide a comprehensive report to the emergency room staff upon arrival to the emergency room and transferring care of the patient to hospital staff, in order

1 to maintain continuity of care. This report should have included the contraindication of suctioning
2 due to the presence of nasal and oral tumors and the location and status of the patient's port-a-
3 cath.

4 B. Respondent's failure to communicate the specialized needs of the patient regarding
5 respiratory care and that the patient had a port-a-cath caused emotional and physical harm to the
6 patient (i.e. trauma, discomfort and agitation due to improper suctioning and multiple unnecessary
7 attempts to gain intravenous access).

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Incompetence)**

10 12. Respondent BARBARA ELISE FRYE is subject to disciplinary action under
11 section 2878, subdivision (a)(1) on grounds of unprofessional conduct, in that on or about
12 September 29, 2009, while on duty as a licensed vocational nurse assigned to care for pediatric
13 patient Brianna, was incompetent in care provided to Brianna - due to the following acts and
14 omissions:

15 A. Respondent failed to provide a comprehensive report to the emergency room staff
16 upon arrival to the emergency room and transferring care of the patient to hospital staff , in order
17 to maintain continuity of care. This report should have included the contraindication of suctioning
18 due to the presence of nasal and oral tumors and the location and status of the patient's port-a-
19 cath.

20 B. Respondent's failure to communicate the specialized needs of the patient regarding
21 respiratory care and that the patient had a port-a-cath caused emotional and physical harm to the
22 patient (i.e. trauma, discomfort and agitation due to improper suctioning and multiple unnecessary
23 attempts to gain intravenous access).

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Breach of Professional Standards: Failure to Perform Basic Services)**

26 13. Respondent is subject to disciplinary action under section 2878, subdivision (a) on the
27 grounds of unprofessional conduct for violating Title 16, California Code of Regulations, section
28 2518.5, subdivision (b) (1) in that on or about September 29, 2009, while on duty as a licensed

1 vocational nurse assigned to care for pediatric patient Brianna, Respondent failed to provide basic
2 nursing services in that she failed to give a comprehensive report regarding Brianna's condition to
3 hospital emergency personnel assuming Brianna's care – and otherwise failed to maintain
4 continuity of care required by the patient's care plan, as described more fully in paragraphs 10, 11
5 and 12 above.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Breach of Professional Standards: Failure to Use Communication Skills)**

8 14. Respondent is subject to disciplinary action under section 2878, subdivision (a) on the
9 grounds of unprofessional conduct for violating Title 16, California Code of Regulations, section
10 2518.5, subdivision (b)(3) in that on or about September 29, 2009, while on duty as a licensed
11 vocational nurse assigned to care for pediatric patient Brianna, Respondent failed to apply
12 communication skills for the purpose of patient care, in that she failed to give a comprehensive
13 report regarding Brianna's condition to hospital emergency personnel assuming Brianna's care,
14 as described more fully in paragraphs 10, 11 and 12 above.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct)**

17 15. Respondent is subject to disciplinary action under section 2878, subdivision (a) on
18 the grounds of unprofessional conduct, in that, as set forth in paragraphs 10, 11 and 12 above, in
19 that on or about September 29, 2009, while on duty as a licensed vocational nurse assigned to
20 care for pediatric patient Brianna, Respondent engaged in unprofessional conduct which related
21 directly to the qualifications, functions and duties of a licensed vocational nurse.

22 **PRAYER**

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
24 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
25 issue a decision:

26 1. Revoking or suspending Vocational Nurse License Number VN 234797, issued to
27 Barbara Elise Frye;

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